

REMARKS

Claims 1-3, 5, 7, 9-14, 16-18, 21-26 are pending. Claims 19, 20, 28, 29, 31-32 have been withdrawn. Claims 4, 6, 8, 15, 27 and 30 has been canceled.

Support for the amendment to claim 1 is found in as-filed claim 1 and in as-filed FIG.2.

Claims 1-3, 5,7,9-14, 16-18 and 21-23 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,645,488 (“Matukas”).

Applicants respectfully traverse. Bhatnagar does not disclose a flexible plunger having a distal end portion slidably received in the bore of the distal end portion of the tube. Rather, as shown by the Examiner’s presentation of FIG. 4 of Bhatnagar, the plunger of Bhatnagar resides only in the proximal end of the delivery tube. Moreover, as Bhatnagar teaches that the proximal end of the delivery tube is actually a wide-mouthed syringe, Bhatnagar teaches that its plunger should be restricted to the proximal end of the delivery tube (i.e., the wide-mouthed syringe). Accordingly, Bhatnagar teaches away from the present invention.

Matukas does not cure the deficiencies of Bhatnagar. Matsukas has been cited only for the alleged flexible nature of its plunger.

Therefore, the present rejection should be withdrawn.

Claims 1-3, 5,7,9-14, 16-18 and 21-23 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,801,263 (Clark).

Applicants respectfully traverse. As above, Bhatnagar does not disclose a flexible plunger having a distal end portion slidably received in the bore of the distal end portion of the tube. Rather, as shown by the Examiner's presentation of FIG. 4 of Bhatnagar, the plunger of Bhatnagar resides only in the proximal end of the delivery tube. Moreover, as Bhatnagar teaches that the proximal end of the delivery tube is actually a wide-mouthed syringe, Bhatnagar teaches that its plunger should be restricted to the proximal end of the delivery tube (i.e., the wide-mouthed syringe). Accordingly, Bhatnagar teaches away from the present invention.

Clark does not cure the deficiencies of Bhatnagar. Clark has been cited only for the flexible nature of its plunger extension. Clark merely teaches to make flexible a formerly rigid element. Clark does not teach modifying a syringe so that its plunger extends past the reservoir component of the device. Thus, even modifying Bhatnagar in view of Clark in the way directed by the Examiner does not produce the present invention, as doing so merely makes the Bhatnagar plunger flexible. It does not allow the plunger to enter the flexible delivery tube 44 of Bhatnagar, as the distal end of the plunger is still oversized with respect to the flexible delivery tube 44 of Bhatnagar.

Moreover, Clark does not really teach a flexible plunger as much as it teaches adding a flexible plunger extension to abut the distal end of a rigid plunger. Because the present invention requires a plunger having a flexible proximal end portion, even modifying Bhatnagar in view of Clark in the way directed by the Examiner does not produce the present invention, as doing so merely makes flexible the distal end portion of the device. Indeed, as both Bhatnagar and Clark require a plunger having a rigid proximal end portion, no combination of Bhatnagar and Clark can produce the present invention.

Therefore, the present rejection should be withdrawn.

Please provide any extensions of time which may be necessary and charge any fees which may be due to Deposit Account No. 10-0750/DEP5164/TMD, but do not include any payment of issue fees.

Respectfully submitted,

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